



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 2762-00

25 September 2000

[REDACTED]

Dear Mr. [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 20 September 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted the Navy on 28 June 1975 for four years at age 18. The record reflects that you were advanced to AA (E-2) and served for 15 months without incident. However, during the 23-month period from September 1976 to August 1978, you received seven nonjudicial punishments (NJP) and were convicted by a special court-martial. Your offenses consisted of two instances of disobedience, use of provoking words, three instances of disrespect, a 34-day period of unauthorized absence (UA), and two brief periods of UA.

On 18 August 1978 you were notified that you were being considered for discharge by reason of misconduct. You were advised of your procedural rights and that the discharge could be under other than honorable conditions. You consulted with counsel and elected to submit a statement in your own behalf, but waived the right to present your case to an administrative discharge board (ADB). Thereafter, the commanding officer recommended discharge by reason of misconduct due to frequent

involvement of a discreditable nature with military authorities. On 12 September 1978, the Chief of Naval Personnel directed discharge under other than honorable conditions by reason of misconduct. You were so discharged on 18 September 1978.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity and the fact that it has been more than 22 years since you were discharged. The Board was unable to understand what your contentions are since the statement in support of your application is not coherent. However, the Board concluded that the foregoing factors were insufficient to warrant recharacterization of your discharge given your record of seven NJPs and a special court-martial conviction. The Board noted the aggravating factor that you waived an ADB, the one opportunity you had to show why you should be retained or discharged under honorable conditions. The Board concluded that you were guilty of too much misconduct to warrant recharacterization to honorable or under honorable conditions. The Board thus concluded the discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director